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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,246	09/18/2003	Wilfred E.Y. Dejaeger	8619.10	1466
26884 7590 03/19/2007 PAUL W. MARTIN NCR CORPORATION, LAW DEPT. 1700 S. PATTERSON BLVD. DAYTON, OH 45479-0001			EXAMINER LABAZE, EDWYN	
			ART UNIT	PAPER NUMBER
			2876	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/19/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/667,246	<b>Applicant(s)</b> DEJAEGER, WILFRED E.Y.	
	<b>Examiner</b> EDWYN LABAZE	<b>Art Unit</b> 2876	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-35, 37-47 and 49-53 is/are rejected.
- 7) ☒ Claim(s) 1-25, 36 and 48 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9182003</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This application is a reissue of 09/432,639 filed on 11/02/1999 now PAT 6,296,185.
2. Receipt is acknowledged of Ids filed 9/18/2003, 11/05/2003, and 4/10/2006.
3. Claims 1-53 {including new claims 26-53} are presented for examination.

### ***Oath/Declaration***

4. The reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414.

The statement in the declaration filed on 1/20/2004, " Applicant failed to appreciate the full scope of the invention failure to include a claim directed to displaying a retail message on a display monitor referencing a product that may be used with a scanned item during a self-service checkout transaction " is not considered to be a sufficient " error" statement since applicant has not pointed out what the original claims lacked that the newly added claim has, or vice versa.

In identifying the error, it is sufficient that the reissue oath /declaration identify a single word, phrase, or expression in the specification or in an original claim, and how it renders the original patent wholly or partly inoperative or invalid. Further, any error in the claims must be identified by reference to the specific claim(s) and the specific claim language wherein lies the error. See MPEP 1414 II (b) and (c).

5. Claims 1-53 are rejected as being based upon a defective reissue oath of declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the oath of declaration is set forth in the discussion above in this Office action.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 26, 34-35, 37 drawn to the method claims and apparatus claims 46-47, and 49 are rejected under 35 U.S.C. 102(e) as being anticipated by Fajkowski (U.S. 6,932,270).

Re claims 26, 34, 35, and 37: Fajkowski discloses method and apparatus for coupon management and redemption, which includes scanning an item {herein Fajkowski discloses that the user may scan, through bar code scanner 10, the bar code on a product as opposed to the coupon barcode to determine if any coupon are provided by the manufacturer} for purchase into the retail terminal (col.14, lines 62-67; col.15, lines 1-15); displaying item information {herein

Art Unit: 2876

the brand, type, expiration date and price of product} associated with said item for purchase on said display monitor 109 in response to scanning said item; and displaying a customer-specific retail message {herein a coupon 134 or incentive associated with either the scanned product or another product; or an advertisement as disclosed in col.22, lines 7-15; col.29, lines 11-40} on said display monitor, contemporaneously with displaying said item information (see fig. # 11; col.20, lines 15-38).

Fajkowski further teaches means of manually entering a barcode information (col.11, lines 33-67) and that the message/advertisement/coupons may be displayed in two display screens 102 for the customer's view and display 109 for the clerk/cashier's view {as shown in fig. # 11 & 12} (col.4, lines 24-65; col.17, lines 21-47; col.19, lines 39-67).

Re claims 46-47, 49: Fajkowski discloses a system and method, which includes display monitor 102/109 (see figs. # 11-12; col.17, lines 20-47); a processing unit/microprocessor 25/ electrically coupled to the monitor 102/109 (col.9, lines 20-43; col.10, lines 55-65); and a memory device/RAM 23/ROM 22 electrically coupled to the processing unit, wherein the memory device has stored therein a plurality of instructions {herein routines} which, when executed by the processing unit in an assisted checkout transaction (col.12, lines 32-53; col.21, lines 40-55), causes the processing unit to enter an item for purchase into the retail terminal, display item information associated with the item for purchase on the display monitor in response to the item for purchase being entered (col.11, lines 33-67), and display a retail message on said display monitor 102/109, contemporaneously with the display of the item information, where the retail message is a customer-specific message that may be viewed by a checkout clerk/cashier (col.4, lines 24-65; col.17, lines 21-47; col.19, lines 39-67).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 27-33, 50-53 drawn to the method claims and apparatus claims 38-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fajkowski (U.S. 6,932,270) in view of Hayward (U.S. 5,752,582).

The teachings of Fajkowski have been discussed above. Fajkowski further teaches in fig. # 11 on display 102 that one of the items for purchase {such chicken N rice soup} is different than the singled-marked coupon 134, means of instructing the customer to identify himself/herself by using his/her loyalty card {herein interpreted as the coupon card 1} (col.10, lines 13-65). Fajkowski also teaches a processing unit/microprocessor 25 (col.9, lines 20-43; col.10, lines 55-65); a memory device/RAM 23/ROM 22 (col.9, lines 24-36)

Art Unit: 2876

Fajkowski fails to specifically a self-service terminal for checking out, and silent to the item being a case of beer and the advertisement for pretzels.

Hayward discloses self-service checkout system, which includes a self-service {herein referred as automated checkout} terminal for checking out (see figs. # 1-5; col.2, lines 58-67; col.6, lines 14-61).

In view of Hayward's teachings, it would have obvious to an artisan of ordinary skill in the art at the time the invention was made to employ into the teachings of Fajkowski a self-service terminal so as to reduce the manpower/number of attendant and efficiently serve the client. Such modification would provide optimal customer service for customer willing to quickly checkout for items to be purchased, and can further requested help from by at least a stationary staff supervising all the checkout terminals. Therefore, such modification would have been an obvious extension as taught by Fajkowski.

***Allowable Subject Matter***

10. Claims 1-25, 36, and 48 would be allowable upon filing proper reissue declaration that complies with 37 CFR 1.175 and 37 CFR 1.63.

11. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to specifically teach means of displaying on first portion of the display information in response to generation of an item-entered control signal, a message on a second portion of the display, and means of displaying a message to a checkout clerk that a customer is underage to purchase alcoholic beverages/tobacco. These limitations in conjunction with other limitations in the claimed invention were shown by the prior art of record.

*Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sloane (U.S. 5,918,211) discloses method and apparatus for promoting products and influencing consumer purchasing decisions at the point-of-purchase.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWYN LABAZE whose telephone number is (571) 272-2395. The examiner can normally be reached on 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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March 13, 2007

  
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